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15 UNITED STATES DISTRICT COURT
16 NORTHERN DISTRICT OF CALIFORNIA
17 SAN JOSE DIVISION

18 CISCO SYSTEMS, INC.,

19 Plaintiff,

20 v.

21 ARISTA NETWORKS, INC.,

22 Defendant.
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27
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Case No. 5:14-cv-05344-BLF (BLF)

**DECLARATION OF DAVID SILBERT IN
SUPPORT OF CISCO'S
ADMINISTRATIVE MOTION TO FILE
UNDER SEAL (DKT. NO. 331)**

Judge: Hon. Beth Labson Freeman

Date Filed: December 5, 2014

Trial Date: November 21, 2016

1 I, DAVID SILBERT, declare:

2 1. I am an attorney licensed to practice law in the State of California and am a partner
3 with the law firm of Kecker & Van Nest LLP, located at 633 Battery Street, San Francisco,
4 California 94111, counsel for Defendant Arista Networks, Inc. (“Arista”) in the above-referenced
5 action. Unless otherwise stated, the facts I set forth in this declaration are based on my personal
6 knowledge or knowledge I obtained through my review of corporate records or other
7 investigation. If called to testify as a witness, I could and would testify competently to such facts
8 under oath.

9 2. I submit this declaration in support of Cisco System Inc.’s (“Cisco”) Administrative Motion to File Under Seal Confidential Information in Cisco’s Motion for Partial
10 Summary Judgment (“Motion to Seal”) on July 1, 2016 (ECF No. 331).

12 3. I have reviewed Cisco’s Motion to Seal and the Civil Local Rules of this Court
13 governing such motions, and submit this supporting declaration under Civil Local Rule 79-5(e).

14 1. Cisco’s Motion to Seal seeks to file under seal documents and information
15 referenced in Cisco’s Motion for Partial Summary Judgment (ECF No. 331-3). Cisco’s Motion
16 for Partial Summary Judgment is a dispositive motion and therefore there must be “compelling
17 reasons” for protecting information from public disclosure. *Kamakana v. City & Cty. of*
18 *Honolulu*, 447 F.3d 1172, 1180 (9th Cir. 2006). Courts have found that “[o]ne factor that
19 weighs in favor of sealing documents [under the compelling reasons standard] is when the
20 release of the document will cause competitive harm to a business.” *Apple v. Samsung*, 727
21 F.3d 1214, 1221-22 (Fed. Cir. 2013); *Apple Inc. v. PsystarCorp.*, 658 F.3d 1150, 1162 (9th Cir.
22 2011) (“The publication of materials that could result in infringement upon trade secrets has
23 long been considered a factor that would overcome this strong presumption.”); *see also Nixon v.*
24 *Warner Commc’n, Inc.*, 435 U.S. 589, 598 (1978) (“common-law right of inspection has bowed
25 before the power of a court to insure that its records” are not used as “sources of business
26 information that might harm a litigant’s competitive standing”). Where public disclosure of
27 business information could harm a litigant’s competitive standing by placing it “in a diminished
28 bargaining position in future negotiations with potential customers and competitors,” there is a

1 compelling reason to seal the records at issue. *Ovonic Battery Co. v. Sanyo Elec. Co.*, Case No.
 2 14-cv-01637, 2014 WL 2758756, at *2-3 (N.D. Cal. June 17, 2014) (sealing portions of a
 3 pleading revealing highly confidential and sensitive financial and other terms of licenses); *see*
 4 *also* Fed. R. Civ. Proc. 26(c)(1)(G) (permitting sealing of “a trade secret or other confidential
 5 research, development, or commercial information”); *Krieger v. Atheros Commc’ns, Inc.*, No.
 6 11-CV-00640-LHK, 2011 WL 2550831, at *1 (N.D. Cal. June 25, 2011) (sealing a presentation
 7 by a party’s investment advisor because it contained highly “sensitive and confidential
 8 information, including long-term financial projections, discussions of business strategy, and
 9 competitive analyses”); *TriQuint Semiconductor, Inc. v. Avago Techs. Ltd.*, Case No. 09-cv-
 10 1531, 2011 WL 6182346, at *3 (D. Ariz. Dec. 13, 2011) (determining that there was a
 11 compelling reason to seal information that revealed the volume of a party’s sales). The public
 12 interest in access is reduced for materials that are “irrelevant to the Court’s decision,” even
 13 when they are associated with dispositive motions. *See, e.g., Network Appliance, Inc. v. Sun*
 14 *Microsystems Inc.*, No. C-07-06053 EDL, 2010 WL 841274, at *2 (N.D. Cal. Mar. 10, 2010).
 15 Such materials are “more akin to the ‘unrelated,’ non-dispositive motion documents the Ninth
 16 Circuit contemplated in *Kamakana*.” *Id.*

17 4. I submit this declaration to provide additional facts in support of Cisco’s Motion to
 18 Seal establishing that the “compelling reasons” standard has been met.

19 5. Cisco submitted the Declaration of Sara E. Jenkins in support of its Motion to Seal
 20 (“Jenkins Declaration”) (ECF No. 331-1) and a highlighted copy of Cisco’s Motion for Summary
 21 Judgment brief (per Civil L.R. 79-5(d)(1)(D)) indicating the specific text within the brief that
 22 should be sealed.

23 6. Paragraph 4 of the Jenkins Declaration lists, in table format, the material that Cisco
 24 seeks to file under seal. I address those materials below. Per the instructions provided on the
 25 Northern District of California’s website, this declaration is drafted so that it does not contain
 26 confidential information and does not need to be filed under seal. *See*
 27 <http://www.cand.uscourts.gov/ecf/underseal>.

| Exhibit Number | Bates Numbers | Designation | Rationale |
|----------------|---------------|--------------------------------|---|
| 1 | None | Cisco Highly Confidential- AEO | Exhibit 1 to the Candido Declaration is an internal Arista development document used by Arista engineers. Compelling reasons justify the sealing of Exhibit 1 because it contains competitively sensitive confidential information concerning the inner workings of Arista's development process, including source code. Compelling reasons justify the sealing of page 12 lines 24–27 of Cisco's Motion for Partial Summary Judgment because they quote from Exhibit 1. |
| 2 | None | Cisco Highly Confidential- AEO | Exhibit 2 to the Candido Declaration is an internal Arista development document used by Arista engineers. Compelling reasons justify the sealing of Exhibit 2 because it contains competitively sensitive confidential information detailing the inner workings of Arista's development process, including internal Arista software design strategies and source code. Arista is <u>not</u> seeking to seal Cisco's characterizations of Exhibit 2 in Cisco's Motion for Partial Summary Judgment because the motion does not disclose these highly confidential details. |

| Exhibit Number | Bates Numbers | Designation | Rationale |
|----------------|--|-----------------------------------|---|
| 3 | ANI-ITC-944_945-3354465 – ANI-ITC-944_945-3354470 | Confidential Business Information | Exhibit 3 to the Candido Declaration is an internal Arista e-mail message. Compelling reasons justify the sealing of Exhibit 3 because it is a competitively sensitive, confidential discussion among Arista engineers concerning the design of Arista software, including source code. Arista is <u>not</u> seeking to seal Cisco's characterizations of Exhibit 3 in Cisco's Motion for Partial Summary Judgment because the motion does not disclose these highly confidential details. |
| 4 | ANI-ITC-944_945-3468759 – ANI-ITC-944_945-3468761 | Confidential Business Information | Exhibit 4 to the Candido Declaration is an internal Arista e-mail message. Compelling reasons justify the sealing of Exhibit 4 because it is a competitively sensitive, confidential discussion among Arista engineers concerning the design of Arista software, source code, and Arista sales strategies. Arista is <u>not</u> seeking to seal Cisco's characterizations of Exhibit 4 in Cisco's Motion for Partial Summary Judgment because the motion does not disclose these highly confidential details. |

| Exhibit Number | Bates Numbers | Designation | Rationale |
|----------------|---|-----------------------------------|--|
| 5 | ANI-ITC-944_945-3473603 | Confidential Business Information | Exhibit 5 to the Candido Declaration is an internal Arista e-mail message. Compelling reasons justify the sealing of Exhibit 5 because it is a competitively sensitive, confidential discussion among Arista engineers concerning the design of Arista documentation and customer sales strategies. Arista is <u>not</u> seeking to seal Cisco's characterizations of Exhibit 5 in Cisco's Motion for Partial Summary Judgment because the motion does not disclose these highly confidential details. |
| 6 | ANI-ITC-944_945-3599339 – ANI-ITC-944_945-3599340 | Confidential Business Information | Exhibit 6 to the Candido Declaration is an internal Arista e-mail message. Compelling reasons justify the sealing of Exhibit 6 because it is a discussion among Arista engineers concerning the design of Arista software. Arista is <u>not</u> seeking to seal Cisco's characterizations of Exhibit 6 in Cisco's Motion for Partial Summary Judgment because the motion does not disclose these highly confidential details. |

| Exhibit Number | Bates Numbers | Designation | Rationale |
|----------------|--|-----------------------------------|---|
| 7 | ANI-ITC-944_945-3927203 – ANI-ITC-944_945-3927206 | Confidential Business Information | Exhibit 7 to the Candido Declaration is an internal Arista e-mail message. Compelling reasons justify the sealing of Exhibit 7 because it is a discussion among Arista engineers concerning the design of Arista software, including the results of testing and customer feedback. Compelling reasons justify the sealing of page 11 line 26 through page 12 line 2 of Cisco's Motion for Partial Summary Judgment because they quote from Exhibit 7. |
| 8 | ANI-ITC-944_945-3937682 – ANI-ITC-944_945-3937685 | Confidential Business Information | Exhibit 8 to the Candido Declaration is an internal Arista e-mail message. Compelling reasons justify the sealing of Exhibit 8 because it is a discussion among Cisco engineers concerning analysis of competitors, internal software design, and source code. Arista is <u>not</u> seeking to seal Cisco's characterizations of Exhibit 8 in Cisco's Motion for Partial Summary Judgment because the motion does not disclose these highly confidential details. |

| Exhibit Number | Bates Numbers | Designation | Rationale |
|----------------|---|---|--|
| 9 | ARISTANDCA_SW_10599829 - ARISTANDCA_SW_10599849 | Highly Confidential- Source Code | Exhibit 9 to the Candido Declaration is a confidential sales presentation made to a potential customer. Compelling reasons justify the sealing of Exhibit 9 because it contains highly competitively sensitive business information and sales strategy that could be exploited by Arista's competitors. Arista is <u>not</u> seeking to seal Cisco's characterizations of Exhibit 9 in Cisco's Motion for Partial Summary Judgment because the motion does not disclose these highly confidential details. |
| 10 | ARISTANDCA10113782 - ARISTANDCA10113783 | Highly Confidential- Attorneys' Eyes Only | Exhibit 10 to the Candido Declaration is an internal Arista e-mail message. Compelling reasons justify the sealing of Exhibit 10 because it is a discussion among Arista business and sales personnel concerning competitively sensitive sales strategy. Arista is <u>not</u> seeking to seal Cisco's characterizations of Exhibit 10 in Cisco's Motion for Partial Summary Judgment because the motion does not disclose these highly confidential details. |

| Exhibit Number | Bates Numbers | Designation | Rationale |
|----------------|--------------------|--|---|
| 11 | ARISTANDCA10193553 | Highly Confidential-Attorneys' Eyes Only | Exhibit 11 to the Candido Declaration is an internal Arista e-mail message. Compelling reasons justify the sealing of Exhibit 11 because it is a discussion among Arista business personnel concerning sales strategy and competitive analysis. Arista is <u>not</u> seeking to seal Cisco's characterizations of Exhibit 11 in Cisco's Motion for Partial Summary Judgment because the motion does not disclose these highly confidential details. |
| 12 | ARISTANDCA10384101 | Highly Confidential-Attorneys' Eyes Only | Exhibit 12 to the Candido Declaration is an internal Arista e-mail message. Compelling reasons justify the sealing of Exhibit 12 because it is a discussion among Arista engineers concerning software design. Arista is <u>not</u> seeking to seal Cisco's characterizations of Exhibit 12 in Cisco's Motion for Partial Summary Judgment because the motion does not disclose these highly confidential details. |
| 13 | ARISTANDCA10443784 | Highly Confidential-Attorneys' Eyes Only | Exhibit 13 to the Candido Declaration is an internal Arista e-mail message. Compelling reasons justify the sealing of Exhibit 13 because it is a discussion among Cisco engineers concerning the design of Arista software. Compelling reasons justify the sealing of page 11 line 3 of Cisco's Motion for Partial Summary Judgment because it quotes from Exhibit 13. |

| Exhibit Number | Bates Numbers | Designation | Rationale |
|----------------|--|---|--|
| 14 | ARISTANDCA10446381- ARISTANDCA10446382 | Highly Confidential- Attorneys' Eyes Only | Exhibit 14 to the Candido Declaration is an internal Arista e-mail message. Compelling reasons justify the sealing of Exhibit 14 because it is a discussion among Cisco engineers concerning the design of Arista software. Compelling reasons justify the sealing of page 11 line 2 of Cisco's Motion for Partial Summary Judgment because it quotes from Exhibit 14. |
| 15 | ARISTANDCA10499890 - ARISTANDCA10499894 | Highly Confidential- Attorneys' Eyes Only | Exhibit 15 to the Candido Declaration is an internal Arista e-mail message. Compelling reasons justify the sealing of Exhibit 15 because it is a competitively sensitive, confidential discussion among Arista engineers concerning the design of Arista software and Arista sales strategies. Compelling reasons justify the sealing of page 9 lines 19–22, page 19 lines 20–24, page 21 lines 25–27, and page 22 line 1 of Cisco's Motion for Partial Summary Judgment because they quote from Exhibit 15. |
| 16 | ARISTANDCA10525014 - ARISTANDCA10525015 | Highly Confidential- Attorneys' Eyes Only | Exhibit 16 to the Candido Declaration is an internal Arista e-mail message. Compelling reasons justify the sealing of Exhibit 16 because it is a discussion among Cisco engineers concerning the design of Arista software. Compelling reasons justify the sealing of page 11 lines 7–10 of Cisco's Motion for Partial Summary Judgment because it quotes from Exhibit 16. |

| Exhibit Number | Bates Numbers | Designation | Rationale |
|----------------|--|---|--|
| 17 | ARISTANDCA10537469 - ARISTANDCA10537470 | Highly Confidential- Attorneys' Eyes Only | Exhibit 17 to the Candido Declaration is an internal Arista e-mail message. Compelling reasons justify the sealing of Exhibit 17 because it is a discussion among Arista engineers concerning the design of Arista software, including the results of customer feedback. Compelling reasons justify the sealing of page 9 lines 26–27 and page 10 line 1 of Cisco's Motion for Partial Summary Judgment because they quote from Exhibit 17. Arista is <u>not</u> seeking to seal Cisco's characterizations of Exhibit 17 on page 24 lines 26–27 of Cisco's Motion for Partial Summary Judgment because they do not disclose these highly confidential details. |
| 18 | ARISTANDCA11406349 | Highly Confidential- Attorneys' Eyes Only | Exhibit 18 to the Candido Declaration is an internal Arista e-mail message. Compelling reasons justify the sealing of Exhibit 18 because the author discusses the design of Arista software. Compelling reasons justify the sealing of page 10 lines 14–15 of Cisco's Motion for Partial Summary Judgment because it quotes from Exhibit 18. |

| Exhibit Number | Bates Numbers | Designation | Rationale |
|----------------|--|---|--|
| 19 | ARISTANDCA11417372 - ARISTANDCA11417374 | Highly Confidential- Attorneys' Eyes Only | Exhibit 19 to the Candido Declaration is an internal Arista e-mail message. Compelling reasons justify the sealing of Exhibit 19 because it is a discussion among Arista business and sales personnel concerning competitively sensitive sales strategy. Arista is <u>not</u> seeking to seal Cisco's characterizations of Exhibit 19 in Cisco's Motion for Partial Summary Judgment because the motion does not disclose these highly confidential details. |
| 20 | ARISTANDCA11992998 - ARISTANDCA11992999 | Highly Confidential- Attorneys' Eyes Only | Exhibit 20 to the Candido Declaration is an internal Arista e-mail message. Compelling reasons justify the sealing of Exhibit 20 because it is a discussion among Cisco engineers concerning the design of Arista software. Compelling reasons justify the sealing of page 12 lines 7–10 of Cisco's Motion for Partial Summary Judgment because it quotes from Exhibit 20. |

| Exhibit Number | Bates Numbers | Designation | Rationale |
|----------------|--|---|---|
| 21 | ARISTANDCA11996919 - ARISTANDCA11996921 | Highly Confidential- Attorneys' Eyes Only | Exhibit 21 to the Candido Declaration is an internal Arista e-mail message. Compelling reasons justify the sealing of Exhibit 21 because it is a discussion among Cisco engineers concerning analysis of competitors, software design, and source code. Arista is <u>not</u> seeking to seal Cisco's characterizations of Exhibit 21 in Cisco's Motion for Partial Summary Judgment because the motion does not disclose these highly confidential details. |
| 22 | ARISTANDCA12060827 | Highly Confidential- Attorneys' Eyes Only | Exhibit 22 to the Candido Declaration is an internal Arista e-mail message. Compelling reasons justify the sealing of Exhibit 22 because it is a discussion among Cisco engineers concerning the design of Arista software. Compelling reasons justify the sealing of page 10 lines 1–2 of Cisco's Motion for Partial Summary Judgment because it quotes from Exhibit 22. |

| Exhibit Number | Bates Numbers | Designation | Rationale |
|----------------|--|---|--|
| 23 | ARISTANDCA12063725 - ARISTANDCA12063726 | Highly Confidential- Attorneys' Eyes Only | Exhibit 23 to the Candido Declaration is an internal Arista e-mail message. Compelling reasons justify the sealing of Exhibit 23 because it is a discussion among Arista business and sales personnel concerning competitively sensitive sales strategy and customer feedback. Compelling reasons justify the sealing of page 10 line 27 through page 11 line 1 of Cisco's Motion for Partial Summary Judgment because they quote from Exhibit 23. |
| 24 | ARISTANDCA12228912 - ARISTANDCA12228928 | Highly Confidential- Attorneys' Eyes Only | Exhibit 24 to the Candido Declaration is an internal Arista e-mail message with attached product talking points used by Arista's sales team. Compelling reasons justify the sealing of Exhibit 24 because it contains competitively sensitive confidential information concerning Arista's business development and sales strategies. Such information would be valuable to competitors and would harm Arista if publicly disclosed. Compelling reasons justify the sealing of page 11 lines 17–21, page 16 lines 19–23, page 22 lines 16–17, and page 24 lines 5–8 of Cisco's Motion for Partial Summary Judgment because they quote from Exhibit 24. |

| Exhibit Number | Bates Numbers | Designation | Rationale |
|----------------|--------------------|--|--|
| 25 | ARISTANDCA12260617 | Highly Confidential-Attorneys' Eyes Only | Exhibit 25 to the Candido Declaration is a confidential e-mail message between Arista and one of its customers. Compelling reasons justify the sealing of Exhibit 25 because it constitutes a sensitive customer communication which discusses the design of Arista software. Compelling reasons justify the sealing of page 10 lines 6–8, page 16 lines 13–15, and page 22 lines 17–19 of Cisco's Motion for Partial Summary Judgment because they quote from Exhibit 25. |
| 26 | ARISTANDCA12426192 | Highly Confidential-Attorneys' Eyes Only | Exhibit 26 to the Candido Declaration is an internal Arista e-mail message. Compelling reasons justify the sealing of Exhibit 26 because it is a discussion among Cisco engineers concerning sensitive software design analysis. Arista is <u>not</u> seeking to seal Cisco's characterizations of Exhibit 26 in Cisco's Motion for Partial Summary Judgment because the motion does not disclose these highly confidential details. |

| Exhibit Number | Bates Numbers | Designation | Rationale |
|----------------|-------------------------------------|---|---|
| 40 | ARISTANDCA12002592 | Highly Confidential-Attorneys' Eyes Only | Exhibit 40 to the Candido Declaration is an internal Arista e-mail message. Compelling reasons justify the sealing of Exhibit 40 because it is a discussion among Cisco engineers concerning the design of Arista software. Compelling reasons justify the sealing of page 9 lines 18–19 of Cisco's Motion for Partial Summary Judgment because it quotes from Exhibit 40. |
| 41 | None [Expert Report of John Black] | Highly Confidential-Subject to Protective Order | Exhibit 41 to the Candido Declaration is a single page from the Opening Expert Report of John R. Black, Jr. that discusses several legacy (pre-Cisco) products and command-line interfaces that supported some of the accused commands, modes, and prompts in dispute in this case, and the testimony of Cisco witnesses regarding those legacy systems. Arista is <u>not</u> seeking to seal Exhibit 41, as it does not discuss any sensitive and confidential Arista matters. |
| 44 | None [Deposition of Kirk Loughheed] | Highly Confidential-Attorneys' Eyes Only | Arista is <u>not</u> seeking to seal Exhibit 44, as it does not discuss any sensitive and confidential Arista matters. |
| 45 | None [Sadana Depo Exhibit 382] | None | Arista is <u>not</u> seeking to seal Exhibit 45, as it does not discuss any sensitive and confidential Arista matters. |

| Exhibit Number | Bates Numbers | Designation | Rationale |
|----------------|--|--|---|
| 46 | None [Deposition of Anshul Sadana, Vol. 1] | Highly Confidential-Attorneys' Eyes Only | Exhibit 46 to the Candido Declaration is an excerpt from the March 17, 2016 deposition of Anshul Sadana. Compelling reasons justify the sealing of Exhibit 46 because it contains sensitive business information concerning Arista software design, customer feedback, sales strategy, and reference confidential internal conversations and documents. Compelling reasons also justify the sealing of page 10 lines 3–6 and page 15 lines 17–19 of Cisco's Motion for Partial Summary Judgment because they quote from Exhibit 46. |

| Exhibit Number | Bates Numbers | Designation | Rationale |
|----------------|---|---|--|
| 47 | None [Deposition of Adam Sweeney] | Highly Confidential-Attorneys' Eyes Only | Exhibit 47 to the Candido Declaration is an excerpt from the January 29, 2016 deposition of Adam Sweeney. Compelling reasons justify the sealing of page 165 line 7 through page 176 line 25 and page 216 line 1 through page 219 line 25 of Exhibit 47 because they contain confidential information concerning Arista software design, customer feedback, sales strategy, and reference confidential internal conversations and documents. Arista does <u>not</u> seek to seal the remaining portions of Exhibit 47, which do not discuss sensitive and confidential Arista matters. Compelling reasons do justify the sealing of page 7 line 23 through page 8 line 1, page 18 lines 17–21 of Cisco's Motion for Partial Summary Judgment because they quote from Exhibit 47. |
| 48 | None [Arista's Further Supp. Responses to Cisco's First, Third, and Fourth Set of Rgs. (Nos. 10-12, 13, 15-18, and 21)] | Contains Confidential Information Subject to Protective Order | Arista is <u>not</u> seeking to seal Exhibit 48, as it does not discuss any sensitive and confidential Arista matters. |

| Exhibit Number | Bates Numbers | Designation | Rationale |
|----------------|---|---|--|
| 51 | ARISTANDCA12265213- ARISTANDCA12265217 | Highly Confidential- Attorneys' Eyes Only | Exhibit 51 to the Candido Declaration is a confidential e-mail message between Arista and one of its customers. Compelling reasons justify the sealing of Exhibit 51 because it constitutes a sensitive customer communication which discusses the design of Arista software and contains customer feedback and identifying information. Arista is <u>not</u> seeking to seal Cisco's characterizations of Exhibit 51 in Cisco's Motion for Partial Summary Judgment because the motion does not disclose these highly confidential details. |
| 52 | ARISTANDCA13004347- ARISTANDCA13004379 | Highly Confidential- Attorneys' Eyes Only | Exhibit 52 to the Candido Declaration is a confidential customer sales presentation attached to an internal e-mail message. Compelling reasons justify the sealing of Exhibit 52 because it contains highly competitively sensitive business information and sales strategy that could be exploited by Arista's competitors. Arista is <u>not</u> seeking to seal Cisco's characterizations of Exhibit 52 in Cisco's Motion for Partial Summary Judgment because the motion does not disclose these highly confidential details. |

| Exhibit Number | Bates Numbers | Designation | Rationale |
|----------------|---|---|--|
| 53 | ARISTANDCA10120802- ARISTANDCA10120803 | Highly Confidential- Attorneys' Eyes Only | Exhibit 53 to the Candido Declaration is a confidential email communication between Arista sales engineers and a prospective customer. Compelling reasons justify the sealing of Exhibit 53 because Arista maintains the identity of its prospective customers as highly confidential and sensitive business information, and the substance of the email reveals Arista's highly confidential sales strategies, including Arista's talking points about its products for prospective customers, which Arista protects as highly confidential competitive information. Arista is <u>not</u> seeking to seal Cisco's characterization of Exhibit 53 in Cisco's Motion for Partial Summary Judgment because the motion does not disclose these highly confidential details. |

| Exhibit Number | Bates Numbers | Designation | Rationale |
|----------------|--|---|--|
| 55 | None [Cisco's Supp. Obj. and Resp. to Arista's Rogs. Nos. 2-10] | Highly Confidential-Attorneys' Eyes Only; Highly Confidential-Source Code | Exhibit 55 to the Candido Declaration consists of discovery responses from Cisco that contain a discussion and analysis of highly confidential Arista source code for its Extensible Operating System ("EOS"). Compelling reasons justify the sealing of the highlighted portion (Page 16, lines 4 to 24) of Exhibit 55 because it contains and reveals sensitive confidential information concerning the structure, organization, and other non-public aspects of Arista's source code, and the proposed redactions to Exhibit 55 are narrowly tailored to those disclosures. Arista is <u>not</u> seeking to seal Cisco's characterizations of Exhibit 55 in Cisco's Motion for Partial Summary Judgment because the motion does not disclose these highly confidential details. |
| 58 | None [Cisco's Corrected Supp. Obj. and Resp. to Arista's Rogs. Nos. 21, 24 & 25] | Contains Highly Confidential Attorney's Eyes Only Information Subject to Protective Order | Exhibit 58 to the Candido Declaration consists of discovery responses from Cisco. Arista is <u>not</u> seeking to seal the highlighted portions of Exhibit 58 because they contain only Cisco's legal arguments and high-level mischaracterizations of Arista deposition testimony and documents. The handful of single-line deposition transcript excerpts in Exhibit 58 need not be sealed. |

| Exhibit Number | Bates Numbers | Designation | Rationale |
|----------------|---|--|---|
| 64 | None [Deposition of Andreas Bechtolsheim] | Highly Confidential-Outside Attorneys' Eyes Only Subject to Protective Order | Exhibit 64 to the Candido Declaration is a short excerpt from the deposition transcript of Andreas Bechtolsheim. Arista is <u>not</u> seeking to seal Exhibit 64, as it does not discuss sensitive and confidential Arista matters. |

| Exhibit Number | Bates Numbers | Designation | Rationale |
|----------------|-----------------------------------|--|--|
| 65 | None [Deposition of Mark Berly] | Highly Confidential-Attorneys' Eyes Only; Pursuant to Protective Order | Exhibit 65 to the Candido Declaration is an excerpt from the deposition transcript of Mark Edward Berly. Compelling reasons justify the sealing of the following portions of Exhibit 65: page 88, lines 3-25; page 89 line 22 through page 90 line 25; and page 238, lines 11-25. The above sections of Exhibit 65 discuss and reveal sensitive confidential and competitive information concerning Arista's sales, marketing, product launch, and customer research efforts and strategy, which Arista maintains as highly confidential. Such information would be valuable to competitors and would harm Arista if publicly disclosed. Arista does <u>not</u> seek to seal the remaining portions of Exhibit 65, which do not discuss sensitive and confidential Arista matters. Arista is <u>not</u> seeking to seal Cisco's characterizations of Exhibit 65 in Cisco's Motion for Partial Summary Judgment because the motion does not disclose these highly confidential details. |
| 66 | None [Deposition of Lincoln Dale] | Highly Confidential-Attorneys' Eyes Only Subject to Protective Order | Exhibit 66 to the Candido Declaration is an excerpt from the deposition transcript of Lincoln Dale. Arista is <u>not</u> seeking to seal Exhibit 66, as it does not discuss sensitive and confidential Arista matters. |

| Exhibit Number | Bates Numbers | Designation | Rationale |
|----------------|-----------------------------------|--|--|
| 67 | None [Deposition of Kenneth Duda] | Highly Confidential-Attorneys' Eyes Only Subject to Protective Order | Exhibit 67 to the Candido Declaration is an excerpt from the deposition transcript of Kenneth Duda. Compelling reasons justify the sealing of the following portions of Exhibit 67: page 176, line 24 through page 178, line 25; page 325, line 2 through page 330, line 25; and page 345, lines 1-20. The above sections of Exhibit 67 discuss and reveal sensitive confidential information concerning the networking tools and equipment used by Arista's customers, which Arista maintains as highly confidential. Such information is confidential to Arista's customers and their networks, and would cause harm to those customers if publicly disclosed. The above sections of Exhibit 67 also discuss highly confidential and sensitive internal Arista emails between software engineers regarding the development of Arista EOS product functionality, as well as confidential technical materials prepared for prospective Arista customers. Arista is <u>not</u> seeking to seal Cisco's characterizations of Exhibit 67 in Cisco's Motion for Partial Summary Judgment because the motion does not disclose these highly confidential details. |

| Exhibit Number | Bates Numbers | Designation | Rationale |
|----------------|--------------------------------|--|--|
| 68 | None [Deposition of Mark Foss] | Highly Confidential-Attorneys' Eyes Only Subject to Protective Order | Exhibit 68 to the Candido Declaration is an excerpt from the deposition transcript of Mark Foss. Compelling reasons justify the sealing of page 101, lines 9-25 of Exhibit 68. The above section of Exhibit 68 discusses and reveals sensitive confidential and competitive information concerning Arista's internal, non-public market research and analysis efforts and strategies. Such information would be valuable to competitors and would harm Arista if publicly disclosed. Arista does <u>not</u> seek to seal the remaining portions of Exhibit 68, which do not discuss sensitive and confidential Arista matters. Arista is <u>not</u> seeking to seal Cisco's characterizations of Exhibit 68 in Cisco's Motion for Partial Summary Judgment because the motion does not disclose these highly confidential details. |

| Exhibit Number | Bates Numbers | Designation | Rationale |
|----------------|------------------------------------|---|--|
| 69 | None [Deposition of Sean Hafeez] | Highly Confidential-Attorneys' Eyes Only Pursuant to Protective Order | Exhibit 69 to the Candido Declaration is an excerpt from the deposition transcript of Sean Hafeez. Compelling reasons justify the sealing of Exhibit 69 in its entirety because the excerpted testimony discusses and reveals sensitive confidential and competitive information concerning Arista's internal, non-public competitive testing and analysis efforts. Such information would be valuable to competitors and would harm Arista if publicly disclosed. Arista is <u>not</u> seeking to seal Cisco's characterizations of Exhibit 69 in Cisco's Motion for Partial Summary Judgment because the motion does not disclose these highly confidential details. |
| 70 | None [Deposition of Hugh Holbrook] | Highly Confidential-Attorneys' Eyes Only; Subject to Protective Order | Exhibit 70 to the Candido Declaration is an excerpt from the deposition transcript of Hugh Holbrook. Arista is <u>not</u> seeking to seal Exhibit 70, as it does not discuss sensitive and confidential Arista matters. |

| Exhibit Number | Bates Numbers | Designation | Rationale |
|----------------|---------------------------------------|---|---|
| 72 | None [Deposition of Lorenz Redlefsen] | None | Exhibit 72 to the Candido Declaration is an excerpt from the deposition transcript of Lorenz Redlefsen. Compelling reasons justify the sealing of page 39, lines 2-18. The above section of Exhibit 72 discusses and reveals sensitive confidential information concerning Arista's internal, non-public development process relating to its EOS product line. Arista is <u>not</u> seeking to seal the remaining portions of Exhibit 72, as they do not discuss sensitive and confidential Arista matters. Arista is <u>not</u> seeking to seal Cisco's characterizations of Exhibit 72 in Cisco's Motion for Partial Summary Judgment because the motion does not disclose these highly confidential details. |
| 74 | None [Deposition of Jayshree Ullal] | Highly Confidential-Attorneys' Eyes Only Pursuant to Protective Order | Arista is <u>not</u> seeking to seal Exhibit 74, as it does not discuss sensitive and confidential Arista matters. |

| Exhibit Number | Bates Numbers | Designation | Rationale |
|----------------|---|--|---|
| 75 | None [Deposition of Jayshree Ullal] | Confidential Business Information Pursuant to the Protective Order | Exhibit 75 to the Candido Declaration is an excerpt from the August 12, 2015 deposition of Jayshree Ullal. Compelling reasons justify the sealing of Exhibit 75 because it contains information concerning the termination of an Arista employee, which is considered confidential under California law. Compelling reasons justify the sealing of page 10 lines 17–21 of Cisco’s Motion for Partial Summary Judgment because it quotes from Exhibit 75. |
| 76 | None [Deposition of Mike Volpi] | Highly Confidential-Attorneys’ Eyes Only; Subject to Protective Order | Arista is <u>not</u> seeking to seal Exhibit 76, as it does not discuss sensitive and confidential Arista matters. |
| 77 | ANI-ITC-944_945-3452526-ANI-ITC-944_945-3452598 | Contains Confidential Business Information - Subject to the Protective Order | Exhibit 77 to the Candido Declaration is a confidential usability comparison study comparing the performance of Arista EOS to Cisco products. Compelling reasons justify the sealing of Exhibit 77 because it contains highly competitively sensitive business and technical information that could be exploited by Arista’s competitors. Arista is <u>not</u> seeking to seal Cisco’s characterizations of Exhibit 77 in Cisco’s Motion for Partial Summary Judgment because the motion does not disclose these highly confidential details. |

| Exhibit Number | Bates Numbers | Designation | Rationale |
|----------------|---|--|---|
| 78 | ANI-ITC-944_945-345648- ANI-ITC-944_945-345650 | Contains Confidential Business Information - Subject to the Protective Order | Exhibit 78 to the Candido Declaration is an internal Arista e-mail message. Compelling reasons justify the sealing of Exhibit 78 because it is a discussion among Arista engineers and business personnel concerning the design of Arista software, including the results of customer feedback. Arista is <u>not</u> seeking to seal Cisco's characterizations of Exhibit 78 in Cisco's Motion for Partial Summary Judgment because the motion does not disclose these highly confidential details. |
| 79 | ARISTANDCA10549782 | Highly Confidential-Attorneys' Eyes Only | Exhibit 79 to the Candido Declaration is an internal Arista e-mail message. Compelling reasons justify the sealing of Exhibit 79 because it is a discussion among Cisco engineers concerning the design of Arista software. Arista is <u>not</u> seeking to seal Cisco's characterizations of Exhibit 79 in Cisco's Motion for Partial Summary Judgment because the motion does not disclose these highly confidential details. |

| Exhibit Number | Bates Numbers | Designation | Rationale |
|----------------|---|--|--|
| 80 | ANI-ITC-944_945-3461154- ANI-ITC-944_945-3461157 | Contains Confidential Business Information - Subject to the Protective Order | Exhibit 80 to the Candido Declaration is an internal Arista e-mail message. Compelling reasons justify the sealing of Exhibit 80 because it is a discussion among Arista engineers and business personnel concerning the design of Arista software, including the results of customer feedback. Arista is <u>not</u> seeking to seal Cisco's characterizations of Exhibit 80 in Cisco's Motion for Partial Summary Judgment because the motion does not disclose these highly confidential details. |
| 81 | ARISTANDCA12229610- ARISTANDCA12229612 | Highly Confidential-Attorneys' Eyes Only | Exhibit 81 to the Candido Declaration is an internal Arista e-mail message. Compelling reasons justify the sealing of Exhibit 81 because it is a discussion among Arista business and sales personnel concerning competitively sensitive sales strategy, pricing information, and customer feedback. Arista is <u>not</u> seeking to seal Cisco's characterizations of Exhibit 81 in Cisco's Motion for Partial Summary Judgment because the motion does not disclose these highly confidential details. |

| Exhibit Number | Bates Numbers | Designation | Rationale |
|----------------|---|---|--|
| 82 | ARISTANDCA11975291- ARISTANDCA11975295 | Highly Confidential- Attorneys' Eyes Only | Exhibit 82 to the Candido Declaration is an internal Arista e-mail message. Compelling reasons justify the sealing of Exhibit 82 because it is a discussion among Arista business and sales personnel concerning competitively sensitive sales strategy, competitive analysis, pricing information, and customer feedback. Arista is <u>not</u> seeking to seal Cisco's characterizations of Exhibit 82 in Cisco's Motion for Partial Summary Judgment because the motion does not disclose these highly confidential details. |

7. Exhibit 1 to the Declaration of Judith A. Chevalier in Support of Cisco's Motion for Partial Summary Judgment is the Rebuttal Expert Report on Fair Use of Judith A. Chevalier. The redacted portions of Exhibit 1 protect extensive Arista highly confidential business information obtained by Cisco through discovery, including deposition testimony and internal emails concerning sales strategy and product development. Compelling reasons justify the sealing of the redacted portions of Exhibit 1 because they contain sensitive business information. Arista is not seeking to seal Cisco's characterizations of Exhibit 1 in Cisco's Motion for Partial Summary Judgment because the motion does not disclose these highly confidential details.

8. Exhibit 1 to the Declaration of Kevin Almeroth in Support of Cisco's Motion for Partial Summary Judgment contains 583 pages of Cisco's Opening Expert Report of Kevin Almeroth. The redacted portions of Exhibit 1 protect extensive Arista highly confidential business information obtained by Cisco through discovery, including deposition testimony concerning the internal workings of Arista software and source code. The redacted portions of Exhibit 1 also protect confidential Arista documents and emails relating to marketing strategy and product development. Compelling reasons justify the sealing of the redacted portions of Exhibit 1

1 because they contain sensitive business information, with the exception of paragraphs 108 citing
2 CSI-CLI00608716; 112 citing Sweeney Dep. 184:5-185:18, 186:21-187:6; Ullal Dep. 253:14-
3 254:7; Dale Dep. 148:19-149:11, 150:4-25, 152:9-25, 153:15-154:9 and 120 citing Arista's
4 interrogatory response to Cisco's Interrogatory No. 10, which Arista is not seeking to seal. Arista
5 is also not seeking to seal Cisco's characterizations of Exhibit 1 in Cisco's Motion for Partial
6 Summary Judgment because the motion does not disclose these highly confidential details.

7 9. Exhibit 2 to the Declaration of Kevin Almeroth in Support of Cisco's Motion for
8 Partial Summary Judgment contains 50 pages of Cisco's Rebuttal Expert Report of Kevin
9 Almeroth. The redacted portions of Exhibit 2 protect extensive Arista highly confidential
10 business information obtained by Cisco through discovery, including deposition testimony
11 concerning the internal workings of Arista software. The redacted portions of Exhibit 2 also
12 protect confidential Arista documents and emails relating to marketing strategy and product
13 development. Compelling reasons justify the sealing of the redacted portions of Exhibit 2 because
14 they contain sensitive business information. Arista is not seeking to seal Cisco's characterizations
15 of Exhibit 2 in Cisco's Motion for Partial Summary Judgment because the motion does not
16 disclose these highly confidential details.

17 Executed July 8, 2016, at San Francisco, California.

18 I declare under penalty of perjury under the laws of the United States of America that the
19 foregoing is true and correct.

20
21 

22 DAVID SILBERT